

EXHIBIT C

In Re: Bard IVC Filters) MD-15-02641-PHX-DGC
Products Liability Litigation)
) Phoenix, Arizona
) May 16, 2018
Doris Jones, an individual,) 1:00 p.m.
)
Plaintiff,)
) CV 16-00782-PHX-DGC
vs.)
)
C.R. Bard, Inc., a New)
Jersey corporation; and Bard)
Peripheral Vascular, Inc., an)
Arizona corporation,)
)
Defendants.)
_____)

(Jury Trial - Day 2 - P.M. Session)
(Pages 345 through 468, inclusive.)

Proceedings Reported by Stenographic Court Reporter
Transcript Prepared by Computer-Aided Transcription

1 the -- or fatigue of the arms and legs themselves?

2 A. Well, yeah, the arms and legs are designed so that they are
3 very susceptible to fatigue. And that's tied up with their
4 shape and orientation and the fact that they can perforate the
5 wall of the IVC. And that leads to enhanced likelihood of 02:29PM
6 fracture by fatigue.

7 MR. STOLLER: Gay, would you find Exhibit 4559,
8 please.

9 THE COURT: We're going to break at this point, Mr.
10 Stoller. We will take a break until 2:45. Ladies and 02:30PM
11 Gentlemen, we'll excuse you at this time.

12 MR. STOLLER: Thank you, Your Honor.
13 (Recess from 2:30 p.m. until 2:47 p.m.)

14 THE COURT: Go ahead, Mr. Stoller.

15 MR. STOLLER: Thank you, Your Honor. 02:47PM

16 BY MR. STOLLER:

17 Q. Dr. McMeeking, just before we broke we were talking about
18 your opinions with respect to the defective -- the design
19 defects in the Eclipse Filter. And you identified the conical
20 design, the thin needle-like limbs in the arms and legs that 02:47PM
21 lead to perforation, the design concentration -- the design
22 that concentrates the strain mentioned at the shoulder or the
23 elbow where the filter meets the cap.

24 Are there any alternative design elements that you
25 have identified that would help relieve or ameliorate some of 02:47PM

1 the issues?

2 MR. NORTH: Your Honor, objection. That's outside the
3 scope of the report.

4 THE COURT: Is that in the report, Mr. Stoller?

5 MR. STOLLER: It is in the report. 02:47PM

6 THE COURT: All right. Could I have a copy and have
7 you show that to me? Why don't you approach, counsel, and we
8 can talk about that.

9 Ladies and Gentlemen, if you want to stand up feel
10 free. 02:48PM

11 (Discussion was had at sidebar out of the hearing of
12 the jury:)

13 THE COURT: By the way, while we're looking for that,
14 the jurors, while they were coming back in, asked Traci if they
15 could hold the filter, if it could be passed around so they 02:48PM
16 could each hold it and look at it.

17 MR. STOLLER: This is Dr. McMeeking's filter so we
18 will have to ask him.

19 MR. NORTH: It has to be admitted into evidence,
20 doesn't it? 02:48PM

21 MR. STOLLER: No.

22 THE COURT: Do they want to pull the leg off?

23 MR. STOLLER: I'm not sure I mind if they pull the leg
24 off. I think he might. It's fine with us. I will have Dr.
25 McMeeking give it to them and they can pass it around. 02:48PM

1 THE COURT: So where are we?

2 MR. STOLLER: Question was alternative design
3 elements. One is, he identified a rounded edge of the cap as
4 fixing the issue at least on Page 62 of his report.

5 THE COURT: Anybody have a copy? 02:48PM

6 MR. STOLLER: I do. Got 80 something pages.

7 MS. HELM: The report is 25 pages.

8 MR. STOLLER: This is the March 3, 2017 report. You
9 are looking at one of the reports from the Barraza case. He
10 talks about how you can change it to make it better, sharp 02:49PM
11 corner --

12 THE COURT: Hold on. Well, he's saying a sharp corner
13 is bad.

14 MR. STOLLER: He's saying a rounded corner --

15 THE COURT: Where does it say that? 02:49PM

16 MR. STOLLER: It's this one, Your Honor. 12.
17 Possibility of a strain concentration.

18 THE COURT: All right. I see that. Do you have a
19 response to that?

20 MR. NORTH: The demonstrative we have been shown that 02:50PM
21 they intend to use goes far beyond those elements. And in his
22 deposition he twice disclaimed any alternative design.

23 THE COURT: So what -- so this is simply talking
24 about --

25 MR. STOLLER: Talking about -- 02:50PM

1 THE COURT: Hold on.

2 MR. STOLLER: Sorry, Your Honor.

3 THE COURT: By curving or chamfering the edge or by
4 eliminating the connection to the cap. Okay. So that's in
5 there. What else do you have in the way of alternative design? 02:51PM
6 Well, let me ask you this. Are you going to elicit alternative
7 design testimony besides that?

8 MR. STOLLER: Yes.

9 THE COURT: What else are you going to elicit?

10 MR. STOLLER: Based on the examination where he was 02:51PM
11 examined by Ms. Daly we're going to elicit testimony that they
12 could have had caudal anchors to elicit caudal movement.

13 THE COURT: Where is that?

14 MR. STOLLER: Page 32. The July 6, 2017: Are there
15 any other changes you think could be made to the filters? He 02:51PM
16 discusses caudal anchors and penetration limiters.

17 THE COURT: All right. I see that on Page 32. What
18 else are you going to elicit?

19 MR. STOLLER: He also testified, Your Honor, at the
20 last trial that the two tier -- the two tier staging of the SNF 02:52PM
21 is a better design to alleviate tilt.

22 THE COURT: What is your response on those three
23 points.

24 MR. NORTH: Your Honor, I think I'm just going to --
25 I'm sorry. He says the opposite in other places. I guess I 02:52PM

1 just need to impeach him with that.

2 THE COURT: So the three areas are where the arms and
3 legs leave the cap; the angle while attaching to the cap,
4 caudal anchors, penetration limiters.

5 MR. STOLLER: Those are two separate things. 02:52PM

6 THE COURT: I know. And the two-staged tiered
7 approach of the Simon Nitinol. That's what you're eliciting?

8 MR. NORTH: Is the two-tiered fair game just because
9 it was mentioned in the last trial?

10 THE COURT: Well, when I said how do you feel about 02:53PM
11 that, you didn't state an objection.

12 MR. NORTH: I'm asking.

13 THE COURT: Are you asking if I would advise you to
14 object?

15 MR. NORTH: Fair enough. We would object because it 02:53PM
16 was not explored in either the deposition or the --

17 THE COURT: Is the two-tiered in the deposition or
18 report?

19 MR. STOLLER: He identified the SNF as all ulterior
20 design in his report. 02:53PM

21 THE COURT: Can you show me where?

22 MR. STOLLER: Your Honor, I will skip that one in the
23 interest of time. I know I'm not going to deal with it.

24 THE COURT: Okay.

25 (In open court.) 02:53PM

1 THE COURT: Thanks, Ladies and Gentlemen.

2 BY MR. STOLLER:

3 Q. Dr. McMeeking, I want to talk about some potential
4 alternative design features that you believe may have fixed
5 some of the issues you have identified. Let me talk
6 specifically about the issues you identified about the IVC
7 filter leg coming out of the cap and the concentration of
8 strains there. Do you understand what I'm talking about?

02:54PM

9 A. Yes. Yes, I do.

10 Q. What sort of design changes could Bard have made that would
11 have fixed or reduced the problems with that design issue?

02:54PM

12 A. They could have smoothed the sharp corner to make it
13 gentler.

14 Q. What effect would that have had?

15 A. That would have the effect of avoiding the severe
16 concentration of strain that can occur at that location.

02:54PM

17 Q. And in turn result in less fractures?

18 A. Correct.

19 Q. Okay. With respect to the issue of perforation, what are
20 there -- do you have opinions as to what sort of design changes
21 they could have made to either eliminate or reduce the
22 frequency of that occurrence?

02:55PM

23 A. Yes. They could have added penetration limiters which
24 would be features on the limbs that would help to slow down or
25 even stop the perforation of the limbs through the wall of the

02:55PM

1 IVC.

2 Q. Does that have effect on migration as well?

3 A. If designed properly, they would have helped to eliminate
4 migration down towards the feet. The hooks which are on the
5 filter already help to limit the tendency for the filter to 02:55PM
6 move toward your head. But adding some hook-like features that
7 would point in the opposite direction would help to stop the
8 filter going downwards.

9 Q. And is there a difference between a design element that you
10 would have added to alleviate the effect of movement down 02:56PM
11 versus the perforation?

12 A. Well, they could have been the same device. But in one
13 case it could have -- hook-like features would have worked. In
14 the other case of penetration limitation, somewhat blunt
15 features would help to slow down the motion of the limb through 02:56PM
16 the wall of the IVC.

17 Q. And the migration downward here, what the jury has been
18 told is called caudal?

19 A. Caudal migration.

20 Q. You would put on something called caudal anchors? 02:56PM

21 A. They are called caudal anchors.

22 Q. Where would those be placed?

23 A. They could be placed either at the feet or the hands of the
24 limbs, and they may be placed elsewhere on the limbs as is
25 convenient for the way that the device is hooked into the IVC 02:56PM

1 and the way that it's delivered from the delivery tube.

2 Q. Let's talk for a moment, Doctor, about your opinions with
3 respect to Bard's design processes and testing for the Eclipse
4 Filter in the prior generation. And I believe you testified
5 earlier that you have opinions with respect to Bard's actions 02:57PM
6 in testing its filters. What is your opinion?

7 A. My opinion is that the testing was inadequate.

8 Q. And why do you hold that opinion?

9 A. I hold that opinion because in some of the tests that they
10 did do the conditions that were used were not the worst-case 02:57PM
11 conditions that were reasonably foreseeable. And in other
12 cases, there was no test done at all. For example, there was
13 no test to look at whether the filter would tilt after it had
14 been implanted. And there was no test to look at whether the
15 limbs would have a tendency to cut through the wall of the IVC 02:57PM
16 and, therefore, puncture and perforate through the wall of the
17 IVC.

18 Q. Did you review Bard's bench testing?

19 A. I did.

20 Q. Did you review its finite element analysis? 02:58PM

21 A. I did.

22 Q. Was its testing reasonable?

23 A. No.

24 Q. Was its testing adequate?

25 A. No. It wasn't adequate. No. 02:58PM